

JAN 28 2008

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

EFRAIN LOPEZ-GARRIDO;
ELIZABETH LOPEZ,

Petitioners,

v.

MICHAEL B. MUKASEY, Attorney
General,

Respondent.

No. 06-71667

Agency Nos. A75-717-040
A75-717-041

MEMORANDUM*

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted January 14, 2008**

Before: HALL, O'SCANNLAIN, and PAEZ, Circuit Judges.

Efrain Lopez-Garrido and Elizabeth Lopez, married natives and citizens of Mexico, petition for review of an order of the Board of Immigration Appeals ("BIA") dismissing their appeal from an immigration judge's decision denying

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

them cancellation of removal. We have jurisdiction pursuant to 8 U.S.C. § 1252, and grant the petition for review.

After the agency's decisions in this case, the BIA held in *Matter of Gonzalez-Silva*, 24 I. & N. Dec. 218 (BIA 2007), that "an alien whose conviction precedes the effective date for section 237(a)(2)(E) of the [Immigration and Nationality] Act has not been 'convicted under' section 237(a)(2)" and remains eligible for cancellation of removal. *Id.* at 220. As Lopez-Garrido's conviction occurred in 1991, and the BIA dismissed Lopez's appeal on the basis that her husband was ineligible for relief, we grant the petition for review and remand for further proceedings. In light of our disposition, we need not address petitioners' remaining contentions.

Petitioners' counsel are reminded that unpublished dispositions filed before January 1, 2007 may not be cited to this court. *See* 9th Cir. R. 36-3(c).

PETITION FOR REVIEW GRANTED; REMANDED.